



# **ADULT DRUG COURT POLICIES AND PROCEDURES MANUAL MONTGOMERY COUNTY, MARYLAND**

Revised: December 7, 2007

**ADULT DRUG COURT  
POLICIES AND PROCEDURES MANUAL  
TABLE OF CONTENTS**

I.	Steering Committee	3
II.	Planning Team	4
III.	Mission Statement	5
IV.	Goals and Objectives	5
V.	Structure/Model	8
VI.	Target Population	9
VII.	Eligibility Criteria	9
VIII.	Disqualification / Termination Criteria	10
IX.	Entry Process	10
X.	Phases	11
XI.	Graduation Criteria	12
XII.	Sanctions and Incentives	13
XIII.	Treatment Protocol	14
XIV.	Supervision Protocol	16
XV.	Testing Protocol	16
XVI.	Evaluation Design	17
XVIII.	Ethics and Confidentiality	21

I. STEERING COMMITTEE

**The committee should be comprised of executive level personnel from each agency to facilitate the process, to expeditiously resolve issues and to provide buy-in at the upper echelon, so that later committees with non-executive level personnel will be comprised of people who are confident that the Head of each agency has made drug court a priority mission. The committee should have a clear purpose; roles of members defined and meet on a regular basis.**

The Hon. Nelson W. Rupp, Jr.  
Associate Judge  
Circuit Court for Montgomery County, MD

The Hon. Eugene Wolfe  
Administrative Judge  
Sixth District Court of Maryland

The Hon. Eric Johnson  
Associate Judge  
Circuit Court for Montgomery County, MD

Ms. Pamela Harris  
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Field Supervisor  
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Russell E. Hamill, III  
Montgomery County Police Department

Dr. Pete Luongo, Director  
State of MD Alcohol and Drug Abuse

Lt. Col. Bruce Sherman  
Montgomery County Sheriff's Department

Mr. Gray Barton, Executive Director  
  
State of MD Drug Court Commission

Samantha Lyons  
Drug Court Coordinator

## II. PLANNING TEAM

**The working group of people to carry out the daily tasks involved in planning the drug court program. The group should meet regularly as a team and also with the steering committee.**

The Hon. Nelson W. Rupp, Jr.  
Associate Judge  
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Ms. Samantha Lyons  
Drug Court Coordinator

### III. MISSION STATEMENT

**A brief statement developed by the drug court team that reflects the purpose of the drug court.**

*The mission of the Montgomery County Adult Drug Court is to eliminate drug abuse, crime, and their consequence, by forging continuing partnerships with the court, health treatment providers, concerned community organizations and law enforcement. Leveraging its partnerships and authority, the court will direct substance-abusing offenders into evaluation and treatment to achieve personal responsibility and productive citizenship.*

### IV. GOALS AND OBJECTIVES

**Goals are general statements about what you need to accomplish to meet your purpose, or mission, and address major issues facing the drug court.**

**Objectives are specific activities or action steps to implement each goal. Exactly what you will attempt to accomplish for whom and in what time period – set of measurable situations, which when achieved will satisfy need.**

#### **Goal 1 Improve the treatment outcomes for addicted offenders.**

Rationale: The Montgomery County Adult Drug Court Program is a post-conviction treatment program that targets offenders with a history of substance abuse or addiction. Most, if not all, have previously been enrolled in some form of treatment program intended to intervene in the cycle of addiction. However, this population continues to demonstrate a dependence on alcohol and other drugs. Goal 1 is to achieve a new result of recovery for Drug Court participants through effective collaboration with the criminal justice and health care treatment systems.

- 1) To achieve clinical classification as drug free for at least 9 continuous months for 100% of those recommended for graduation from the Drug Court Program.
- 2) To maintain post-graduation recovery status for 65% of program participants as measured through re-entry to public or private alcohol and drug treatment services in the first year following graduation from the drug court.
- 3) To engage 100% of program graduates in aftercare planning.
- 4) To decrease the number of drug-using days per enrollee by at least 60% per year.

**Goal 2      Develop and implement a holistic, comprehensive program model that is specific to the treatment needs of each program participant.**

Rationale: The Drug Court treatment model is built upon a foundation of individualized treatment supported through a comprehensive program of supervision, monitoring, and other program elements supported through a system of rewards and sanctions. Through a more comprehensive, longer-term approach to treatment and supervision, the Drug Court Program implements a new alternative for rehabilitation and recovery not currently available to offenders.

- Objectives
- 1) To secure an agreement to participate in the program for at least 75% of those assessed as program-eligible.
  - 2) To develop individualized, initial treatment plans for 100% of program participants within 15 days of acceptance to the Drug Court Program.
  - 3) To achieve a graduation rate of 75% of those who enroll in the Drug Court program.

**Goal 3      Reduce recidivism among Drug Court participants.**

Rationale: The operating assumption among drug court participants is that their criminal activities result from their addiction. As a result, successful intervention in the cycle of addiction will result in lower rates of recidivism among graduates of the Drug Court Program.

- Objectives
- 1) To eliminate new arrests for CDS-related offenses among program participants by 100% after the completion of Phase II of the Drug Court Program.
  - 2) To avoid re-arrest on any criminal charge for at least 65% of program participants after the completion of Phase I of the Drug Court Program.
  - 3) To assess re-arrest rates for 100 % of program participants at the completion of the program and at 3 months, 6 months and 1 year and 2 years following graduation.

**Goal 4      Reduce the costs to the community and the state by providing an alternative to long-term incarceration for offenders who successfully graduate from the Drug Court Program.**

Rationale: Currently, offenders face the possibility of incarceration as part of their original sentence, or as back-up time for a violation of probation. . Through enrollment in, and the successful completion of the Drug Court Program, the offender can avoid his/her exposure to long-term incarceration and the state avoids the substantial costs associated with that incarceration.

- Objectives**
- 1) To successfully engage addicted offenders with the Drug Court Treatment model to avoid the imposition of incarceration for 75% of program participants.
  - 2) To reduce the reliance on incarceration as the primary sanction for criminal offenses and violations of probation by maintaining at least 45 offenders in cost-effective, efficient community-based treatment programs delivered through the Drug Court Program.
  - 3) To reduce the demand for bed space at state and local detention facilities by up to 11,000 bed days per year (@45 inmates x 365 days per year).
  - 4) To deliver community-based treatment and supervision models that are substantially below the estimated \$1,040,250 annualized costs required to house and treat inmates at state and local detention facilities (60 inmates @\$106.40/day x 365 days per year).

**Goal 5 Engage the community in the recovery process through education and awareness of the cycle of alcohol and drug abuse or dependence and the role of the Drug Court in providing a public safety solution.**

Rationale: Community involvement is vital to the success of drug court participants and the program itself. Through education and awareness, an improved understanding of the cycle of alcohol and other drug dependence can promote community support for the recovery process. Further, the local business community can assist recovering addicts in their search for employment, or other rewards, that support and assist the program's goal for productive citizenship.

- 1) Solicit public speaking engagements by Drug Court Team Members and Drug Court Graduates at community forums and other group meetings to improve awareness of the cycle of addiction and the role of the Drug Court at least 4 times per year.
- 2) Solicit locations for the placement of program participants in meaningful community service or part-time / full-time employment.
- 3) Solicit local businesses to support drug court participants toward recovery through public-private partnerships that provide tangible rewards for success.
- 4) Sponsor round table, public forums each quarter on topics relevant to alcohol and drug abuse and dependence and their impact on community safety.

## V. STRUCTURE/MODEL

The Montgomery County Adult Drug Court is a post-conviction program for offenders convicted of a non-violent crime. Participants must meet the eligibility requirements for entry to the Drug Court program (as defined under the section “Eligibility Criteria”) and must have a verifiable history of substance abuse. Procedurally, offenders may be referred to the Drug Court Program 1) as a condition of an initial sentence through a negotiated plea agreement between the State and the defense, or, 2) as a treatment strategy for offenders charged with a violation of the conditions of their probation.

Eligible Offenders who are accepted into the Drug Court program are placed on special conditions of probation that appropriately support the goals of recovery and rehabilitation for program participants. Placed under the supervision of the Judge assigned to the Drug Court Program, enrollees consent to participate in a structured, three-phase program that involves treatment, urinalysis, breath analysis, case management sessions, and other program-related requirements. (see Section “IX. Phases” for a more detailed description of program requirements). Once enrolled in the Program, Drug Court participants should anticipate that they will remain enrolled in the program for the 18 month duration of services. Program Participants are subject to all of the conditions of probation recommended by the Drug Court team, and approved by the Drug Court Judge.

Upon the successful completion of the Drug Court Program and approval for graduation, participants are fully released from their probationary status.

The Montgomery County Adult Drug Court is an offender-focused rehabilitation model that recognizes the powerful influence of substance abuse as a driver of behavior. Recognizing that recovery from addiction is vital to community safety and individual accountability, the Montgomery County Adult Drug Court leverages four characteristics of its Drug Court program as its foundations for participant support toward recovery:

- Unique involvement of the Drug Court Judge;
- A non-adversarial, collaborative approach to treatment;
- Recognition, reward and positive reinforcement for progress; and,
- The rapid imposition of negative sanctions as incentives to improve compliance and to modify negative behaviors.

To promote the interests of the offender, and the community in which he/she lives, the Montgomery County Drug Court provides an alternative to traditional case processing and disposition that emphasizes the value of:

- **Collaborative treatment planning** and case management;
- **Dedicated leadership and professional resources** who are well-informed on the cycle of alcohol and other drug abuse and its consequences;
- **Positive reinforcement and rapid response** to success;
- **Graduated sanctions** as vital to the support and reinforcement of the adopted treatment interventions;
- **Longer-term treatment and sanctioning models** that have a reasonable tolerance for relapse that is consistent with the recovery process; and,
- **Integrating treatment planning with judicial decision-making.**



## VI. TARGET POPULATION

The Montgomery County Adult Drug Court targets non-violent offenders where there is a reasonable assumption that the offender's criminal activity is connected directly to the ongoing, chronic, and habitual, abuse of substances. Absent an interruption in their cycle of addiction, it is likely that criteria-eligible offenders will continue to commit crime, reenter the criminal justice system and be exposed to long-term incarceration, or other negative consequences, that often result from traditional, less resource-intensive, approaches to case disposition.

Typically, offenders enrolled in the Drug Court program will have social histories hallmarked by prior contacts with law enforcement, previous exposure to alcohol and drug treatment systems, and a history of relapse into substance abuse. The Montgomery County Drug Court targets offenders who require the more intensive focus on treatment, monitoring, and judicial intervention that hallmark Drug Court programs.

Significantly, the Montgomery County Adult Drug Court recognizes that substance abuse contributes to crime across a wide spectrum of activities. As a result, the program does not limit program participation to involvement in a drug-related offense. Adult offenders assessed as habitual substance abusers and otherwise deemed appropriate for Montgomery County's Adult Drug Court Program will be afforded access to specialized and highly intensive treatment services.

Through effective intervention into the cycle of addiction, the Drug Court transitions program participants from addicted persons to productive citizens capable of meeting the challenges of adult life in a complex world.

## VII. ELIGIBILITY CRITERIA

Offenders entering the Drug Court Program must meet the following eligibility criteria:

Drug Court Participants must be adult residents of Montgomery County, Maryland who are:

- Non-Violent;
- Either:
  - a. Sanctioned and approved by the Office of the State's Attorney for referral to the Drug Court Program as part of a binding plea agreement;
  - or,
  - b. Referred as a condition of a violation of probation;
- Willing and able to consent to enter the Drug Court Program;
- Assessed as a substance abuser; and
- Physically, emotionally, and mentally capable of participating in Drug Court activities and programs.
- Subject to at least 18 months of Probation

## VIII. DISQUALIFICATION / TERMINATION CRITERIA

Enrollment and participation in the Montgomery County Adult Drug Court is an opportunity for an offender to overcome his/her dependence on drugs and/or alcohol. Through successful completion of the Drug Court program, offenders will overcome their addiction and avoid future criminal activity. Offenders may be disqualified from program entry, continuation, or graduation if it is in the interests of the community, and / or the credibility of the Drug Court Program to do so. Although it is difficult to identify every circumstance that may lead to program disqualification, examples include:

- Committing a crime of violence, or the Drug Court becoming aware of behavior that is violent or threatening to the safety of others as defined by the standards of the Bureau of Justice Assistance (BJA).
- Co-occurring disordered individuals whose mental illness is so severe to prevent active and full participation in the Drug Court Program.
- A demonstrated lack of capacity or willingness to engage in treatment and comply with the conditions of probation imposed by the Drug Court.
- Continuing criminal activity while under the supervision of the Drug Court.
- Acts of violence while under the supervision of the Drug Court Program. Special emphasis will be placed on any violence, or threats of violence, that occur in the participant's home, place of work, or at treatment centers/programs.

## IX. ENTRY PROCESS

Entry to the Drug Court Program may be initiated through:

- a) A binding plea agreement in a criminal case.

The offender's Defense Counsel and the State's Attorney must agree to a sentence to Drug Court. No Drug Court participant will be received into Drug Court as part of an original sentence over the objection of the State's Attorney. Once a binding plea agreement with a Drug Court sentence has been reached, the offender will be assessed for Drug Court eligibility. Criteria-eligible offenders will be admitted to the Drug Court under the direction of the presiding Judge of the Drug Court. If the offender is determined to be ineligible for Drug Court enrollment, the case will be returned to the referring Judge for a non-Drug Court alternative disposition.

- b) A referral for offenders charged with Violation of Probation.

The Division of Parole and Probation (DPP), the court, Defense Counsel, or the State's Attorney may refer offenders to the Drug Court on violation of probation (VOP) cases anytime prior to sentencing on the VOP. As in the case for binding plea agreements in a criminal case, offenders referred to the Drug Court will be assessed for eligibility as a condition of their acceptance into the Drug Court. If accepted, the VOP will be permanently transferred to the presiding Judge assigned to the Drug Court.

## X. PHASES

Drug Court enrollees participate in a three-phase treatment model designed to transition the offender from alcohol and other drug abuse (AOD) or dependence to successful recovery. The Drug Court is designed as an 18 month program that transitions program participants from a recognition of their addiction, to active engagement in the therapeutic process, to sustained recovery and aftercare. Individuals entering the program should anticipate that they will be actively enrolled in Drug Court for the 18 month duration of the Program. Each phase of the program has specific elements and program criteria that must be completed prior to moving to the next phase. In some cases, participants may be returned to a lower phase if, in the judgment of the Drug Court team, the participant will benefit from further or renewed participation in that lower phase of treatment, or it is a part of a sanction for failure to comply with Drug Court requirements.

Criteria	Phase I	Phase II	Phase III/Continuing Care
Estimated Minimum Lengths-of-Stay	4 Months	6 Months	4-8 Months
Random Urinalysis (UA) Week Days	2	2	2
Random Urinalysis (UA) Weekends	1	1	1
Treatment Sessions Week Days	Minimum of 3	Minimum of 2	Minimum of 1
N/A - A/A Attendance Weekly	Minimum of 3	Minimum of 3	Minimum of 3
Case Management Meetings Weekly	1	1	1
Court Attendance	Weekly	Bi-Weekly	Bi-weekly
Community Service	Optional	Optional	Mandatory
Employment and/or School Attendance	Yes	Yes	Yes
Promotion to Next Phase	Meet all program requirements of Phase I, at least 4 months in Phase I, and 30 consecutive days of clean UA	Meet all program requirements of Phase II, at least 6 months in Phase II, 90 consecutive days of clean UA	Meet all Program Requirements for Phase III, at least 6 months in Phase III/Continuing Care, and, 9 consecutive months clean drug tests
Payment of Fees**	YES	YES	YES
Restitution	Upon order of the Drug Court Judge	Upon order of the Drug Court Judge	Upon order of the Drug Court Judge
Graduation			Complete Aftercare Planning with Case Manager

\*\* No one will be denied participation to the Drug Court program due to the inability to pay.

### Drug Court Continuing Care Phase

The Continuing Care Phase of treatment for the Adult Drug Court Program is available for those participants that have completed the more intensive phases of the Drug Court Treatment Program, and are awaiting the graduation ceremony. The purpose of the Continuing Care Phase is to address relapse prevention and ongoing monitoring and support of their progress, as it relates to employment, housing, mental health treatment, payment of fines/restitution, support/self-help group involvement, and family/social relationships.

Continuing Care serves as a post-treatment monitoring process, and is in fact a less intense form of treatment. It provides participants a means to address problems or concerns before they escalate and threaten recovery. Upon graduation from the Adult Drug Court Program, participants will be discharged from the Continuing Care Phase, but are **strongly** encouraged to continue participating in the weekly Drug Court Alumni AA meeting.

### Continuing Care Protocol

1. Clients who have completed Phases I, II, and III requirements will remain in treatment and on probation until graduation.
2. The Continuing Care Phase consists of the following requirements:
  - Once a week urine screens and breathalyzers at ASC.
  - Attendance at the Tuesday evening Alumni AA/NA meeting at OAS, 751 Twinbrook Parkway, 7-8:00pm, on a weekly basis.
  - Maintain once per month contact with Probation and Parole.
  - Maintain contact with the assigned Drug Court Case Manager.
  - Maintain employment or school
  - Pay fees/fines as required.
3. Clients participating in the Continuing Care Phase will be maintained on the active caseload of the Drug Court Treatment Program Case Manager.

## XI. GRADUATION CRITERIA

Participants must have met all of the following criteria to graduate from the adult drug court:

- Successful completion of all program and probation requirements including all restitution and costs;
- Satisfactory completion of community service and other program assignments;
- Nine (9) consecutive months clean and sober, including clean urinalysis and negative breathalyzer/SCRAM results;
- A positive recommendation for graduation by the Drug Court team;
- The approval of the Drug Court Judge;
- Completion of an aftercare plan with the case manager.

## XII. SANCTIONS AND INCENTIVES

The Drug Court program employs a variety of rewards to recognize and reinforce progress, and applies a process of graduated sanctions to address noncompliance. Rewards and sanctions may include the following:

### **Rewards**

The reward process recognizes the positive achievements of Drug Court participants as they progress from addiction to sobriety. Behavioral changes that may result in a reward are discussed, and recommended, at the status review hearing. Rewards may take many forms and will be consistent with the goals and objectives of the enrollee's treatment plan, but may include:

- Encouragement and praise from the Drug Court Judge
- Ceremonies and tokens or certificates of progress
- Decreased frequencies for court appearances
- Decreased drug and alcohol testing
- Graduation ceremonies
- Overriding imposed drug court sanctions when appropriate, and at the direction of the judge, in order to recognize a participant's overall positive performance.

### **Sanctions**

Non-compliance is addressed at the status review hearing. Since sanctions are most effective when applied immediately, participants violating the terms and conditions of their enrollment in Drug Court, will be required to report in person to the next available Drug Court docket. Thus, the non-compliance issue(s) can be addressed at the earliest possible time. The Drug Court team will discuss the mandatory sanction to be imposed for non-compliance, emphasizing a team, rather than an adversarial process. Mandatory responses for non-compliance may include the following:

- Warnings and admonishments by the Drug Court Judge in open court
- Increased frequency in court appearances
- Increased frequency of drug testing and/or breath testing, or other elements of the defined treatment program
- Assignment to a work detail
- Increased community supervision
- Extension of the time required to complete any given phase of the program;
- Demotion to a lower program phase
- Escalating periods of jail confinement (including AOD treatment while confined), including as a last resort, possible enrollment in jail-based treatment programs with incarceration not to exceed the duration of the jail based program.
- Termination from Drug Court and the imposition of a non-Drug Court sentence.

For the specific violations of continued drug use violations supported through urinalysis or breath testing, and failures to prove attendance at AA/NA meetings (failures to get attendance slips signed), the following sanctions will be applied to participants who have advanced to **Phases II and III** of the Program, unless there are extenuating circumstances:

<b>Phase II and Phase III Sanctions</b>			
<b>Violation Description</b>	<b>1st Violation</b>	<b>2<sup>nd</sup> Violation</b>	<b>3<sup>rd</sup> Violation</b>
Positive Urinalysis / Breath Test	Overnight Incarceration	Incarceration, Thursday – Sunday	Enrollment in the Jail Addiction Services Program (JAS) with PRC enrollment post- release
AA/NA Attendance Violations (No-Slip Violations)	Work Detail – 8 hours	1 Overnight Incarceration	Graduated sanction determined by the Drug Court Team and approved by the Judge.

Failure to appear for any Drug Court hearing shall result in a bench warrant to be served forthwith by the Montgomery County Sheriff's Department with the defendant to be held without bond pending the next Drug Court date.

### XIII. TREATMENT PROTOCOL

The treatment protocol provides for intensive therapeutic interventions for AOD dependent persons enrolled in the Montgomery County Adult Drug Court program. The treatment model is outpatient. However, where indicated, participants may be referred to and required to successfully complete a residential treatment program (for detoxification and/or other residential services) prior to beginning the outpatient program or, if necessary, during the outpatient program. The program also will develop procedures for those who have co-occurring disorders where the AOD dependence masks the symptoms of the serious mental illness(es). Having a co-occurring mental health disorder will not disqualify an individual from participating in the Drug Court program, if they are capable of full and active participation in every element of the Drug Court program.

Consistent with the Drug Court model, treatment begins with a thorough and complete assessment of an offender's history and level of involvement with alcohol and other drugs. Based on this assessment, the assigned therapist will develop a treatment plan to include the following elements:

<b>Program Element</b>	<b>Who</b>	<b>When</b>	<b>Where</b>	<b>Frequency</b>
Eligibility	Drug Court Monitor	Pre-court	Court -Judicial Ctr.	Once
Screening	Case Manager	Client Assessment Instrument (CAI) and HIDTA Automated Tracking System (HATS)	Court-Judicial Ctr.	Once
Initial Assessment	Department of Health and Human Services (DHHS) – Outpatient Addiction Service (OAS) or Clinical Assessment & Triage Services (CATS) Case Manager	Intake	OAS – 751 Twinbrook Parkway  CATS – Montgomery County Detention Center 1307 Seven Locks Rd	Once
Individualized Treatment consistent with the DHHS – BHCS Continuum of Care Model See Appendix	DHHS – OAS  Therapist II	Weekly	OAS – 751 Twinbrook Parkway	Inpatient – Per residential treatment plan. Outpatient Level 1 - 2 days Level 2 – 3 days
Meetings with Case Manager	DHHS – OAS  Therapist II Case Manager	Weekly	OAS – 751 Twinbrook Parkway	At least once per week
Mandatory Attendance Narcotics Anonymous (NA) Alcohol Anonymous (NA)	DHHS – OAS	Weekly	Community	Minimum of 3 and/or based upon Initial Treatment Plan.
Mandatory Urinalysis and/or Breathalyzer	DHHS – Addictions Services Coordination (ASC)	Weekly	ASC – 255 Rockville Pike	Minimum of 3 and/or based upon Initial Treatment Plan.
Random Urinalysis and/or Breathalyzer	PreRelease Center (PRC)	Weekends	PRC – 11651 Nebel Street	As above
Aftercare Planning	DHHS – OAS Case Manager	Phase III – Prior to Graduation	OAS – 751 Twinbrook Parkway Or other	Once

#### XIV. SUPERVISION PROTOCOL

**The type of supervision/case management model that will be used to supervise/monitor the drug court participants include who, when, where and frequency.**

Supervision is a shared responsibility among all members of the Drug Court Team achieved through effective collaboration, decision-making and rapid response to conditions that may lead to relapse or further criminal activity by program participants. Unique to the Drug Court Treatment model is the active personal involvement of the Drug Court Judge at weekly/bi-weekly hearings with each of the program participants. However, the primary responsibility for day-to-day supervision of program participants rests with the assigned Case Manager. Working in collaboration with the Drug Court Team, the Case Manager will meet at least weekly with each Drug Court participant and report his/her status at the weekly Drug Court Team meeting. A designated agent from Parole and Probation will monitor each participant's employment, living environment, weekly court appearances and any new criminal charges. All members of the team will keep the Case Manager informed of any conditions that might impact the capacity or ability of the Drug Court program to successfully monitor and supervise participants in community-based programs.

<b>Program Element</b>	<b>Who</b>	<b>When</b>	<b>Where</b>	<b>Frequency</b>
Supervision	Drug Court Judge, Case Manager, Parole and Probation	Weekly/ Bi-weekly	varies	At least once per week
	Drug Court Team	Weekly Team Meeting	Court – Judicial Ctr.	Weekly

#### XV. TESTING PROTOCOL

Alcohol and drug screening model: Urinalysis and Breath Testing

Drug Court participants will participate in mandatory, random, urinalysis and/or breath testing consistent with the following table. In addition, participants are subject to the possibility of an additional random urinalysis screening through a “call-in” program on Saturday mornings at PRC where up to 1/3 of the participants will be required to appear for random testing.



<b>Phase</b>	<b>Responsible Agency</b>	<b>Location</b>	<b>Frequency per Week</b>
Phase I	DHHS – ASC	ASC	3
Phase II	DHHS – ASC	ASC	2-3
Phase III	DHHS - ASC	ASC	2
Random Saturday Call-in	PRC DHHS - ASC	PRC	1/3 of all program participants 1x week

## XVI. EVALUATION DESIGN

The evaluation of the Drug Court Program will focus on three major aspects of the program:

1. Program design;
2. Program Impact or Outcomes; and,
3. Program Efficiency.

Each element for evaluation requires the use of data and systems to collect, analyze, and report on the evaluation criteria. To support that effort, the Drug Court Team, through its Research/Evaluator, will conduct an initial assessment of the primary data systems used in the Courts, DHHS, DPP, DOCR and the County's CJIS system to identify data elements that will be used for data entry and analysis. In addition, the Drug Court Team may recommend that data that currently is not being collected, but which is necessary to a fair, accurate evaluation of the program, be included as part of the data collection process once the Drug Court Program is implemented.

### **Program Design**

The Montgomery County Adult Drug Court Program is designed as an intensive, multi-phased program that emphasizes offender rehabilitation and recovery from addiction. Programmatically, Drug Court participants consent to participate in a highly structured program that is designed to end their addictive behavior(s). Each participant will have an individualized treatment plan that anticipates recovery within 18 months.

To evaluate the program design, information will be maintained (while adhering to strict confidentiality requirements) on each program participant relevant to his/her performance against each of the criteria for full, active program participation. The goal of the evaluation will be to determine which program elements contribute to successful completion of the program, which elements may serve as barriers to successful completion, and whether or not the initial design should be modified to promote the goals and objectives of the Drug Court Program.

An accurate evaluation of the program requires at least one year of program operations to collect sufficient data for the analysis. The evaluation will include:

- The number and percentage of enrollees who graduate from the program;
- The number and percentage of enrollees who fail to complete the program, or who are discharged from the program in order to identify and classify those factors that contributed to

a failure-to-complete. The information will be used to determine whether the program design serves as a barrier to success;

- The adequacy of the program criteria to meet the goal of recovery. Specifically, the evaluation will seek to determine whether the program design can increase positive results through fewer (or more) program elements such as:
  - The number of random UA's conducted and their results;
  - Mandatory attendance at N/A A/A;
  - Multiple treatment sessions per week;
  - Weekly Case Management Meetings;
  - Payment of Fees, Restitution;
  - Court Attendance
  - Community Service.
- Responses to surveys of participants, therapists and members of the Drug Court Team to assess their perspective on the design of the program;
- Rates of recidivism or relapse among program graduates within 3 months, 6 months, 1 year and 2 years after completion of the program.

## **Program Impact or Outcomes**

This evaluation will focus on the results that are identified in the Goals and Objectives section of this manual. Specifically, the evaluation will assess the extent to which the Program is able to achieve its objectives to:

- Achieve clinical classification as drug free for at least 270 continuous days for 100% of those recommended for graduation from the Drug Court Program.
- Maintain post-graduation recovery status for 65% of program participants as measured through re-entry to public or private sponsored addiction treatment services in the first year following graduation from the program.
- Actively engage 100% of program graduates in effective aftercare planning.
- Decrease the number of drug-using days per enrollee by at least 60% per year.
- Develop individualized treatment plans for 100% of program participants within 15 days of acceptance to the Drug Court Program.
- Secure an agreement to participate in the program for at least 75% of those assessed as program-eligible.
- Achieve a graduation rate of 75% of those who enroll in the Drug Court program.
- Eliminate new arrests for CDS-related offenses among program participants by 100% after the completion of Phase II of the Drug Court Program prior to graduation.
- Avoid re-arrest on any criminal charge for at least 65% of program participants after the completion of Phase I of the Drug Court Program.

- Assess re-arrest rates for 100 % of program participants at: 1) the completion of the program; 2) at 3 months; 3) at 6 months; 4) 1 year following graduation; and 5) at 2 years.
- Successfully engage addicted offenders and violators of probation with the Drug Court Treatment model to avoid the imposition of incarceration for 75% of program participants.
- Reduce the reliance on incarceration as the primary sanction for violations of probation by maintaining at least 60 probation violators into cost-effective community-based treatment delivered through the Drug Court Program.
- Reduce the demand for bed space at state and local detention facilities by up to 11,000 bed days per year (@30 inmates x 365 days per year).
- Deliver community-based treatment and supervision models that are substantially below the estimated \$1,040,250 annualized costs required to house and treat inmates at state and local detention facilities (30 inmates @\$95/day x 365 days per year).
- Solicit public speaking engagements by the Drug Court Team Members and Drug Court Graduates at community forums and other group meetings to improve awareness of the cycle of addiction and the role of the Drug Court at least 4 times per year.
- Solicit locations for the placement of program participants in meaningful community service or part-time / full-time employment.
- Solicit local businesses to support participants toward recovery through public-private partnerships that provide tangible rewards for success.
- Sponsor round table, public forums each quarter on topics relevant to alcohol and drug abuse and their impact on community safety.
- Incorporate Drug Court Graduates into the Drug Court Team by creating an Alumni/Peer Support Group that is actively involved with Case Managers in treating Drug Court participants.

Upon an assessment of the levels of achievement against the program's objectives, the Drug Court Team may use evaluation results to modify, strengthen, or redefine the objectives to achieve a model of continuous improvement of the program.

## **Program Efficiency**

The efficiency evaluation will have a primary focus on time and processing:

- The capacity of the program to reduce the time frame from the filing of the VOP to its first hearing in the Circuit Court.
- Time from intake to enrollment;
- Time frames for completion of each phase;
- Total length of enrollment in the Program;
- Number of hours of treatment time;

In addition, there will be an evaluation to consider:

- Service Locations and whether the locations for services promote the efficient delivery of services to the client;
- Efficiencies related to urinalysis;
- The capacity for rapid response by the Drug Court team to situations that require the attention of the entire team.

## XVIII. ETHICS AND CONFIDENTIALITY

Drug Courts transition the roles of every member of the drug court team from their traditional separation and independence to a collaborative effort focused on the recovery of drug court participants. Judges become part of a collaborative decision-making team that includes treatment providers, court personnel, attorneys and other law enforcement agents. Prosecutors and defense counsel coordinate their efforts in new ways to achieve a participant's recovery from alcohol or drug addiction, muting their traditional adversarial relationship. Typical courtroom decorum where lawyer-advocates speak on behalf of their clients may give way to direct conversations between the judge and defendant. Defendants become "participants" and may actively engage in discussions on their progress, or lack of progress, with a broader range of "actors" in the criminal justice system. Substance abuse treatment professionals actively engage with the Court and other members of the team far earlier than is the case in more traditional referrals from the court for treatment and monitoring. These and other transitions in the professional roles of judges, lawyers, health treatment professionals and other law enforcement agents are crucial to the drug court model.

That transition from tradition roles however, requires that drug courts be consciously aware of ethical and confidentiality considerations to ensure that those who enroll in the program are confident that each member of the drug court team maintains the highest standards of ethical conduct. Drug courts, forging new models of collaboration and information exchange, do not redefine the ethical standards of each profession involved in the drug court process. Properly understood, canons of ethics strengthen the drug court model by promoting each member of the team as a unique contributor to the recovery process.

As in any other criminal case, each member of the drug court team has a specifically defined role. Although the roles of the judge, prosecutor, defense attorney, treatment personnel and other law enforcement agents promote a unified interest in participant recovery and program success, they have not abandoned their roles as advocates for their respective disciplines. Rather, in the context of the drug court, that advocacy role broadens to reflect the benefit(s) that may accrue to the drug court participant, and the community, in the event the participant successfully graduates from the program and recovers from alcohol and/or other drug dependence.

Most often, the ethical issues related to drug court practices involve the *non-adversarial* nature of the proceedings. It is important to note that *non-adversarial* does not equate to *non-advocacy*. Rather, each member of the drug court team best represents his or her professional responsibilities by advocating a perspective that is consistent with their professional interests as members of a team who contribute equally, through the lens of their respective professions, to the outcome of recovery for every participant in the program. In the context of a drug court, the traditional concepts of the attorneys as "courtroom opponents," or "opposing counsel," give way to a common commitment to the best interests of the participant toward ending his or her addictive behaviors.

Similarly, although the drug court judge will have more intimate and direct involvement with program participants, their counsel, and the other members of the drug court team, the judge maintains his or her traditional role as an impartial, independent decision-maker who is advised by other professionals on his or her options to foster compliance with the terms and conditions of probation, and to strengthen to each participants' capacity to engage in the drug court process and graduate from the program.

Substance abuse treatment professionals, operating from a medical, rather than a legal, model, most often interact with probation and corrections officials through the process of reporting compliance with the conditions of probation, or other sanctions, imposed by the court. As members of a collaborative team, case managers will be actively engaged in direct discussions with the drug court judge, attorneys, and other members of the drug court team and may have a more active role in guiding the treatment decisions at the front-end of the treatment and referral process than is the case in more traditional courts. As a result, due diligence must be taken to ensure compliance with confidentiality requirements as the traditional insulation of treatment providers from the arena of the courtroom gives way to an active, advisory role to the judge on treatment options that most closely meet the goal of recovery for each participant.

To enhance awareness of the ethical standards and confidentiality requirements for every member of the team, and to be clear on the ethical dimensions involved in a drug court practice, the Montgomery County Adult Drug Court Program will:

- Promote and foster the duties of professional competence and due diligence from every member of the drug court team;
- Maintain, recognize, respect, and value and distinct roles of every member of the team;
- Foster a spirit of collaboration where every member of the team is expected to exercise independent professional judgment and render candid advice on how best to meet the treatment goals and expected outcomes for each participant in the program;
- Add value to the drug court process by promoting authentic advocacy that is consistent with the professional responsibilities of each member of the drug court team;
- Ensure that every member of the team is fully aware of the drug court model, how it operates, and be able to articulate its risks and benefits to program participants and to the community;
- Promote competency and knowledge on professional ethics and confidentiality and how they may be consistently applied in a drug court setting;
- Ensure that program participants are fully informed on the drug court process, that they give voluntary, informed consent to participate in the drug court program, and that they are aware of the risks and benefits that are involved with their participation in the program;

- Require that program participants sign appropriate Waivers of Confidentiality that demonstrate that the participant provides informed consent on the consequences of that waiver, that it is given voluntarily, and that he or she has had the opportunity to discuss the terms and conditions of that Waiver with counsel;
- Provide on-going education on the ethical and confidentiality dimensions of drug courts by directing members of the team to current research and writing that address the issues of ethics and confidentiality in drug courts.
- Hold information discussed during pretrial interviews, assessment, drug court team staffing meetings, drug court status hearings and treatment sessions in confidence.
- No results or statements made by participants during drug court proceedings shall be admissible against participants other than in drug court proceedings to prove a violation of the drug court rules or to establish grounds for termination of a defendant from the drug court program.

To promote a full understanding of the discussions related to ethics and confidentiality in drug court programs, members of the team are directed to the following documents as sources of information and guidance on applied ethics in drug court programs. Through education and exposure to important areas of debate, the Montgomery County Drug Court Team will continue to demonstrate ethical standards that will withstand the scrutiny of professionals in the field, participants in the drug court program, and the community-at large.

***Ethical Considerations for Judges and Attorneys in Drug Court***

National Drug Court Institute

Document Number 197080

October, 2002

<http://www.ncjrs.org/pdffiles1/nij/grants/197080.pdf>

***Issues Raised for Defense Counsel in Drug Court Representation Relevant to the ABA Canons of Ethics, Canons 2-4 [Draft]***

Submitted to NDCI Committee Addressing Ethics and Confidentiality Issues

Relevant to Drug Court Proceedings

Caroline S. Cooper, J.D.

March, 1999

[http://www.american.edu/justice/publications/ndci\\_ethics.htm](http://www.american.edu/justice/publications/ndci_ethics.htm) (underscore between ndci and ethics .. ndci\_ethics)

***Federal Confidentiality Rules and How They Affect Drug Court Practitioners***

National Drug Court Institute

April, 1999

<http://ndci.org/admin/docs/confid.doc>

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